

CS FOR HOUSE BILL NO. 136(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/13/99
Referred: Finance

Sponsor(s): REPRESENTATIVES THERRIAULT, Halcro

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tourism and tourism marketing; eliminating the Alaska
2 Tourism Marketing Council; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** FINDINGS AND INTENT. (a) The legislature finds that it is important for
5 the state to continue to work cooperatively with the private sector visitor industry to promote
6 Alaska as a tourist destination for the benefit of the citizens of the state.

7 (b) It is the intent of the legislature that all tourism marketing functions currently
8 performed by the Alaska Tourism Marketing Council and the Alaska division of tourism be
9 consolidated and performed under a contract with a single qualified trade association and that
10 the association provide a significant financial contribution to this cooperative tourism
11 marketing program, with the Alaska division of tourism performing primarily planning,
12 governmental coordination, and advocacy for tourism development.

13 * **Sec. 2.** AS 23.20.526(d)(8) is amended to read:

14 (8) in the employ of the state or a political subdivision of the state if

1 the service is performed by an individual in the exercise of duties

2 (A) as a judicial officer, the governor, the lieutenant governor,
3 a person hired or appointed as the head or deputy head of a department in the
4 executive branch, a person hired or appointed as the director of a division of
5 a department in the executive branch, an assistant to the governor, a chair or
6 member of a state commission or board, state investment officers and the state
7 comptroller in the Department of Revenue, [THE EXECUTIVE DIRECTOR
8 OF THE ALASKA TOURISM MARKETING COUNCIL,] an appointed or
9 elected municipal officer, any other elected official, the fiscal analyst of the
10 legislative finance division, the legislative auditor of the legislative audit
11 division, the executive director of the Legislative Affairs Agency, and the
12 directors of the divisions within the Legislative Affairs Agency;

13 (B) as a member of the Alaska Army National Guard or Alaska
14 Air National Guard or Alaska Naval Militia;

15 (C) as an employee serving on only a temporary basis in case
16 of fire, storm, snow, earthquake, flood, or similar emergency; or

17 (D) as an election official or election worker if the amount of
18 remuneration received by the individual during the calendar year for services
19 as an election official or election worker is less than \$1,000;

20 * **Sec. 3.** AS 36.30.850(b) is amended by adding a new paragraph to read:

21 (41) a tourism marketing contract awarded under AS 44.33.125.

22 * **Sec. 4.** AS 44.33.119 is amended to read:

23 **Sec. 44.33.119. Purposes.** The purposes of AS 44.33.119 - 44.33.135 [AND
24 AS 44.33.700 - 44.33.735] are to

25 (1) encourage the expansion and growth of the state's visitor industry
26 for the benefit of the citizens of the state;

27 (2) ensure that the economic benefits to be derived from tourism in the
28 state are retained in the state, to the greatest extent possible;

29 (3) ensure that a maximum number of residents of the state are
30 employed in the tourism industry;

31 (4) [PROMOTE COOPERATION BETWEEN THE STATE AND

1 PRIVATE SECTOR IN THE PLANNING AND EXECUTION OF A GENERIC
2 VISITOR MARKETING CAMPAIGN IN THE PUBLIC INTEREST;

3 (5) PROMOTE THE DEVELOPMENT OF VISITOR INDUSTRY
4 FACILITIES, BOTH IN THE PUBLIC SECTOR AND THE PRIVATE SECTOR,
5 THROUGH THE USE OF STATE RESOURCES, AS APPROPRIATE;

6 (6) ENSURE THAT THE VISITORS' EXPERIENCE IN THE STATE
7 IS AND CONTINUES TO BE SATISFACTORY AND LEADS TO WORD-OF-
8 MOUTH ADVERTISING AND RETURN VISITS TO THE STATE;

9 (7)] ensure that consideration is given in the development and
10 implementation of the tourism program to local community goals and objectives, to
11 impacts on existing private enterprises, and to impacts on recreational and subsistence
12 opportunities for the residents of the state;

13 (5) [(8)] promote the development of tourism opportunities **throughout**
14 **the state, including** along the highway system of the state, [INCLUDING] the marine
15 highway, and in rural areas of the state.

16 * **Sec. 5.** AS 44.33.120(b) is repealed and reenacted to read:

17 (b) The Alaska division of tourism shall

18 (1) cooperate with organizations in the private sector for the promotion
19 and development of tourism into and within the state;

20 (2) coordinate with municipal, state, and federal agencies for the
21 development of tourism resources in the state;

22 (3) promote and develop the state's tourist industry;

23 (4) cooperate with the private sector in the planning and execution of
24 a destination tourism marketing campaign under AS 44.33.125 that is in the public
25 interest;

26 (5) promote the development of visitor industry facilities, both in the
27 public sector and the private sector, through the use of state resources as appropriate;

28 (6) plan and advocate for tourism and tourism development in
29 coordination with the private sector, municipalities, state, and federal agencies;

30 (7) administer and evaluate the tourism marketing contract program
31 under AS 44.33.125;

- 1 (8) administer visitor information centers; and
2 (9) conduct research.

3 * **Sec. 6.** AS 44.33.120 is amended by adding a new subsection to read:

4 (d) During the term of a contract with a qualified trade association under
5 AS 44.33.125(a), the Department of Commerce and Economic Development may not
6 execute another tourism marketing campaign except as provided under
7 AS 44.33.125(b), (c), or (d).

8 * **Sec. 7.** AS 44.33 is amended by adding a new section to read:

9 **Sec. 44.33.125. Tourism marketing contracts.** (a) Subject to appropriations
10 for the purpose, the Department of Commerce and Economic Development shall, on
11 or before August 1 of each year, contract with a single qualified trade association for
12 the purpose of planning and executing a destination tourism marketing campaign. The
13 contract may be awarded only if the qualified trade association provides matching
14 funds equal to at least 30 percent of the costs of the marketing campaign described in
15 the contract. The marketing campaign may promote distinct segments of tourism, such
16 as highway tourism, seasonal tourism, ecotourism, cultural tourism, regional tourism,
17 and rural tourism. Before the contract is executed, the marketing campaign plan must
18 be approved by the department.

19 (b) The tourism marketing contract awarded under (a) of this section must
20 include essential components identified by the department and may include media
21 advertising, establishing and operating a system for responding to visitor inquiries,
22 publishing and distributing information regarding vacation planning, establishing and
23 maintaining Internet sites that provide tourism information, conducting market research,
24 and other activities related to tourism that the department may designate in the
25 contract. If the qualified trade association refuses a contract component requested by
26 the department, the department may award a contract to another person to perform that
27 component but only if the terms are not materially different from those offered to the
28 qualified trade association.

29 (c) A qualified trade association that has been awarded a tourism marketing
30 contract under (a) of this section has, while the contract is in effect, the right of first
31 refusal for every other tourism marketing contract offered by the department. The

1 qualified trade association is required to provide matching funds for a contract awarded
2 under this subsection only if matching funds are required by the contract offer. If the
3 qualified trade association refuses a contract offer under this subsection, the department
4 may award the contract to another person but only under terms not materially different
5 from those offered to the qualified trade association.

6 (d) If, during the term of a contract awarded under (a) of this section, funds
7 from any source become available to the department for tourism marketing activities
8 in addition to the funds already committed under the contract, the contract may be
9 amended to include the additional funds and the additional tourism marketing
10 activities. The department may require the qualified trade association to provide
11 matching funds in any amount for the additional funds, or the department may impose
12 no matching requirement for the additional funds. If the qualified trade association
13 refuses the additional funds, the department may use the additional funds to award a
14 contract to another person but only under terms not materially different from those
15 offered to the qualified trade association.

16 (e) The marketing campaign conducted under a tourism marketing contract
17 awarded under (a) of this section must be directed by a group within the qualified
18 trade association that is broadly representative of the various sectors of the visitor
19 industry in the state and whose members are

20 (1) involved in a visitor industry business or have experience in tourism
21 marketing; or

22 (2) officers or senior staff members of a state agency, a local
23 government, or a nonprofit enterprise established to promote the visitor industry.

24 (f) Materials produced and marketing information and tourism related data
25 generated by the qualified trade association under a contract awarded under (a) or (c)
26 of this section are the joint property of the qualified trade association and the
27 department. However, the qualified trade association may, but only for the purpose
28 of promoting the state, use, sell, or lease the materials, information, and data. In
29 addition, the qualified trade association may only permit the use by or sale to another
30 person of the materials, information, or data if the use by the other person is also for
31 the purpose of promoting the state. The qualified trade association may impose other

1 restrictions on the right of another person to use the materials, information, or data.
2 If a qualified trade association provides the right to use a mailing list generated under
3 a contract awarded under (a) or (c) of this section, the list must be made available to
4 every person at the same price, except that a person who is not a participant in the
5 qualified trade association's marketing program may be charged an additional amount
6 based on the amount of the qualified trade association's participation fee attributable
7 to a participant's right of access to mailing lists. The qualified trade association retains
8 all revenue generated by the association under a contract awarded under (a) or (c) of
9 this section.

10 (g) A qualified trade association shall provide to the department, on request,
11 materials produced and marketing information and tourism related data generated by
12 the qualified trade association under a contract awarded under (a) or (c) of this section.
13 The materials, information, and data provided to the department under this subsection
14 are not public records under AS 09.25.100 - 09.25.220.

15 (h) A qualified trade association may not use money from a contract awarded
16 under (a) or (c) of this section

17 (1) to lobby a municipality or an agency of a municipality or to lobby
18 the state or an agency of the state, as those terms are defined in AS 44.99.030(b);

19 (2) to raise funds that will be used to lobby a municipality or an agency
20 of a municipality or to lobby the state or an agency of the state, as those terms are
21 defined in AS 44.99.030(b); or

22 (3) for administrative or overhead costs that directly support any effort
23 to lobby a municipality or an agency of a municipality or to lobby the state or an
24 agency of the state, as those terms are defined in AS 44.99.030(b).

25 (i) A qualified trade association may, pursuant to the performance of a tourism
26 marketing contract awarded under (a) or (c) of this section, award a subcontract only
27 on a competitive basis after providing adequate notice of the availability of the
28 subcontract and considering all responses.

29 (j) In this section, "qualified trade association" means a private, nonprofit
30 organization whose primary purposes include the promotion of tourism within the state
31 and encouraging tourists to visit the state and that has a statewide membership

1 consisting of representatives of all major sectors of the visitor industry, including
2 hotels, airlines, cruise lines, wholesale and retail travel agencies, visitor attractions,
3 convention and visitors bureaus, bed and breakfast enterprises, wilderness lodges and
4 outfitters, and charter operations.

5 * **Sec. 8.** AS 44.33.125(a) is amended to read:

6 (a) Subject to appropriations for the purpose, the Department of Commerce and
7 Economic Development shall, on or before August 1 of each year, contract with a
8 single qualified trade association for the purpose of planning and executing a
9 destination tourism marketing campaign. The contract may be awarded only if the
10 qualified trade association provides matching funds equal to at least 60 [30] percent
11 of the costs of the marketing campaign described in the contract. The marketing
12 campaign may promote distinct segments of tourism, such as highway tourism,
13 seasonal tourism, ecotourism, cultural tourism, regional tourism, and rural tourism.
14 Before executing the contract, the marketing campaign plan must be approved by the
15 department.

16 * **Sec. 9.** AS 44.33.135 is amended by adding a new subsection to read:

17 (c) A grant awarded under this section may not be used for tourism marketing.

18 * **Sec. 10.** AS 39.25.110(27); AS 39.50.200(a)(8)(G), 39.50.200(b)(49); AS 44.33.700,
19 44.33.705, 44.33.710, 44.33.715, 44.33.720, 44.33.723, 44.33.725, 44.33.727, 44.33.730,
20 44.33.733, 44.33.735; AS 44.66.010(a)(15); and AS 44.99.030(a)(14) are repealed.

21 * **Sec. 11.** Sections 1 - 7, 9, and 10 of this Act take effect July 1, 2000.

22 * **Sec. 12.** Section 8 of this Act takes effect July 1, 2002.